



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,809	12/27/2000	J. Tracy Weed	NTI-020	1531

29477 7590 12/17/2010
BEVER HOFFMAN & HARMS, LLP
901 CAMPISI WAY
SUITE 370
CAMPBELL, CA 95008

EXAMINER

FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
----------	--------------

3689

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

12/17/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mserna@beverlaw.com
creddick@beverlaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TRACY J. WEED, CHRISTOPHE PIERRAT,
YAGYENSH (BUNO) PATI, and ATUL SHARAN

Appeal No. 2009-007528
Application 09/752,809
Technology Center 3600

Before DALE M. SHAW, *Division 2 Support Administrator*.

ORDER DISMISSING APPEAL

On December 10, 2008, a Supplemental Examiner's Answer was filed containing a New Grounds of Rejection.

Under the Board's regulations at 37 C.F.R. §41.50(a)(2), the Appellants had a statutory response time to the Examiner's Answer of two months to either 1) reopen prosecution, or 2) maintain the appeal by filing

a Reply Brief to the Examiner's Answer. The Appellants have failed to exercise either of the options under 37 C.F.R. §41.50(a)(2), which reads as follows:

- (2) If a supplemental examiner's answer is written in response to a remand by the Board for further consideration of a rejection pursuant to paragraph (a)(1) of this section, the appellant must within two months from the date of the supplemental examiner's answer exercise one of the following two options to avoid sua sponte dismissal of the appeal as to the claims subject to the rejection for which the Board has remanded the proceeding:
 - (i) *Reopen prosecution*. Request that prosecution be reopened before the examiner by filing a reply under §1.111 of this title with or without amendment or submission of affidavits (§§1.130, 1.131 or 1.132 of this title) or other evidence. Any amendment or submission of affidavits or other evidence must be relevant to the issues set forth in the remand or raised in the supplemental examiner's answer. A request that complies with this paragraph will be entered and the application or the patent under *ex parte* reexamination will be reconsidered by the examiner under the provisions of §1.112 of this title. Any request that prosecution be reopened under this paragraph will be treated as a request to withdraw the appeal.
 - (ii) *Maintain appeal*. Request that the appeal be maintained by filing a reply brief as provided in §41.41. If such a reply brief is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the examiner under paragraph (a)(2)(1) of this section.

Accordingly, it is

ORDERED that the appeal filed March 2, 2007, is dismissed.

Appeal 2010-007528
Application 09/752,809

DMS/mls

BEVER HOFFMAN & HARMS, LLP
901 CAMPISI WAY
SUITE 370
CAMPBELL, CA 95008